

Corporal punishment of children in Turkey: Briefing for the Universal Periodic Review, 21st session, 2015

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Global Initiative to
**End All Corporal Punishment
of Children**

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Turkey, corporal punishment of children is lawful despite recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture, the Committee on Economic, Social and Cultural Rights, the European Committee of Social Rights and during the 1st cycle UPR of Turkey in 2010 (accepted by the Government).

We hope the Working Group will note with concern the legality of corporal punishment of children in Turkey. We hope states will raise the issue during the review in 2015 and make a specific recommendation that legislation is enacted which includes prohibition of all forms of corporal punishment in all settings, including the home.

1 Review of Turkey in the 1st cycle UPR (2010) and progress since then

1.1 Turkey was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 8). The issue of corporal punishment was included in the compilation of UN information¹ and the summary of stakeholders' information.² The following recommendation was made and was accepted by the Government:³

“Take legislative and practical measures at preventing and combating violence against women and children, including prohibition of corporal punishment (Armenia)”

1.2 The prohibition and elimination of all corporal punishment, without exception, is an immediate obligation under the Convention on the Rights of the Child and other international human rights instruments. Since the review in 2010, Turkey has received recommendations on the issue from the Committee on the Rights of the Child (2012), the Committee Against Torture (2011), the Committee on Economic, Social and Cultural Rights (2011) and the European Committee of Social Rights (2012) (see below, paras. 3.1-3.4). But despite this and despite the Government's acceptance of the 1st cycle UPR

¹ 19 February 2010, A/HRC/WG.6/8/TUR/2, Compilation of UN information, para. 37

² 19 February 2010, A/HRC/WG.6/8/TUR/3, Summary of stakeholders' views, para. 36

³ 17 June 2010, A/HRC/15/13, Report of the working group, para. 101(4)

recommendation to prohibit, there has been no change in the legality of corporal punishment. Today, as in 2010, it is lawful in the home, alternative care settings and day care. **We hope members of the Working Group will urge the Government of Turkey to enact legislation which prohibits all forms of corporal punishment of children in all settings, including the home.**

2 Legality of corporal punishment in Turkey

- 2.1 **Summary:** In Turkey, corporal punishment of children is unlawful in schools and the penal system but it is not prohibited in the home, alternative care settings and day care.
- 2.2 **Home (lawful):** In 2002, the Civil Code was amended to remove parents' "right of correction", but the Criminal Code 2004 recognises the concept of "disciplinary power" (art. 232). Provisions against violence and abuse in the Criminal Code, the Law on Protection of the Family and the Law on Child Protection 2005 are not interpreted as prohibiting all corporal punishment in childrearing.
- 2.3 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings, where it is lawful as for parents (see para. 2.2, above).
- 2.4 **Day care (lawful):** There is no explicit prohibition of corporal punishment in all early childhood care and in day care for older children.
- 2.5 **Schools (unlawful):** Corporal punishment has been considered unlawful in schools since 1923, but there is no explicit prohibition and there has been some controversy as to its legal status. Law No. 1702 punishes ill-treatment and beating of students (arts. 20 and 22), and the Law on Promotion, Appreciation and Punishment for Primary School Teachers No. 4357 (art. 7), the Law on Promotion and Punishment for Secondary School Teachers (arts. 20-22 and 27) and the State Personnel Law No. 657 provide for punitive measures against teachers who use physical or psychological violence against children. However, in April 2008, an investigation by the Education Ministry into the use of corporal punishment by a school principal reportedly concluded that corporal punishment has an educational value.⁴ The investigator reportedly cited an Administrative Supreme Court ruling in 1978 which supported corporal punishment by teachers, but not a 2005 ruling against it.⁵
- 2.6 **Penal institutions (unlawful):** Corporal punishment is considered unlawful, but we have yet to confirm prohibition is explicit. The Law on Enforcement of Punishment and Security Policies 2004 provides for the rights of children in detention, but we have no further details.
- 2.7 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

3 Recommendations by human rights treaty monitoring bodies

- 3.1 **CRC:** The Committee on the Rights of the Child first expressed concern at corporal punishment of children in Turkey in 2001, in its concluding observations on the state

⁴ "Officials sanction 'harsh discipline' on students", *Turkish Daily News*, 21 April 2008

⁵ *ibid.*

party's initial report.⁶ In 2012, the Committee again raised the issue and recommended that corporal punishment be explicitly prohibited in the home and in alternative care settings.⁷

3.2 **CAT:** In 2011 the Committee Against Torture recommended that the legal status of corporal punishment in schools in Turkey be clarified and corporal punishment prohibited in the home and other settings.⁸

3.3 **CESCR:** In 2011, the Committee on Economic, Social and Cultural Rights recommended that legislation be adopted in Turkey to prohibit all forms of corporal punishment in the home.⁹

3.4 **ECSCR:** In 2005, the European Committee of Social Rights concluded that the situation in Turkey was not in conformity with the European Social charter because corporal punishment was not prohibited in the home.¹⁰ In 2012, following a re-examination of the situation, the Committee reiterated its conclusion.¹¹

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children

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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.

⁶ 9 July 2001, CRC/C/15/Add.152, Concluding observations on initial report, paras. 47 and 48

⁷ 20 July 2012, CRC/C/TUR/CO/2-3, Concluding observations on second/third report, paras. 6, 7, 44, 45, 58 and 59

⁸ 20 January 2011, CAT/C/TUR/CO/3, Concluding observations on third report, para. 22

⁹ 12 July 2011, E/C.12/TUR/CO/1/, Concluding observations on initial report, para. 24

¹⁰ March 2005, Conclusions XVII-2

¹¹ January 2012, Conclusions 2011